

IN UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CHAD HOGAN,

Plaintiff,

vs.

CIVIL ACTION NO.

2:05CV-687-F

CITY OF MONTGOMERY, et al.,

Defendants.

\* \* \* \* \*

DEPOSITION OF M. D. GORDON,

taken pursuant to notice and stipulation on behalf of the  
Plaintiff, in the Law Offices of Thomas, Means, Gillis &  
Seay, P.C., 3121 Zelda Court, Montgomery, Alabama, before  
Angela Fulmer, Certified Shorthand Reporter and Notary  
Public in and for the State of Alabama at Large, on  
February 9, 2006, commencing at 9 a.m.

DEFENDANT'S  
EXHIBIT

3

1 -- when you arrived at Arnaud Meats, what's the  
2 first thing you saw?

3 A. When I pulled into the business, my normal protocol  
4 would be, my training in the academy, you pull into  
5 an alarm, you turn your lights off. That way if  
6 suspects, or suspect, are there they can't see you  
7 coming in. I pulled off of the boulevard on to the  
8 service road. I don't know the exact name of the  
9 service -- it may be the Northern Boulevard. It's  
10 just a service road on the side. I turned my lights  
11 off. I noticed a vehicle parked in the parking lot  
12 and an unknown subject running back to the vehicle  
13 and get into the vehicle -- into the back seat of  
14 the vehicle. The vehicle pulled off. I continued  
15 to go to the building. I looked over, and I saw the  
16 window unsecured. At the time, I didn't know if it  
17 was busted or just raised or what it was. I  
18 immediately followed the car.

19 Q. Okay. I'd asked you what was the first thing you  
20 saw. So the first --

21 A. The car was the first thing I noticed.

22 Q. You noticed the car --

23 A. Correct.

1 A. Correct.

2 Q. Okay.

3 MR. NELMS: And I'm pointing at  
4 Mr. Hogan.

5 Q. Can you tell me, then, what the suspect did?

6 A. Okay. As I said earlier, he ran back to the vehicle  
7 and got into the back passenger side of the car.

8 Q. Back right?

9 A. Passenger, right. Back passenger side.

10 Q. Okay. And did you have -- you said earlier that  
11 you're trained when you come upon a Code 11 you keep  
12 your lights off -- your emergency lights off?

13 A. My headlights and everything.

14 Q. Everything?

15 A. Right.

16 Q. Okay. Did there come a point in time when you  
17 turned your lights on?

18 A. Right. When the car left the business, I turned my  
19 lights on then, because I knew I was going to try to  
20 stop the car.

21 Q. Okay. What was the approximate distance for, let's  
22 say, the front bumper of this car and the side here  
23 on the northern end of Arnaud's Meat in feet, if you

1 Q. Okay. And what exactly did you say, if you recall?

2 MR. WHITEHEAD: Object to the form.

3 A. I don't know exactly what I said, but I advised them  
4 what I had. I told them I had a vehicle that left  
5 the business. I was approaching the vehicle and the  
6 vehicle fled. I asked for more units to come  
7 assist -- come and assist me. I don't know if I  
8 said it that way or not.

9 Q. Okay. Well, let's talk about it for just a second.  
10 Now, you said that the vehicle fled. Using the  
11 little diagram that we've made here --

12 A. Okay.

13 Q. -- tell me --

14 A. Here's the trailer park. I just -- the trailer park  
15 is all this right here (indicating). The vehicle  
16 pulled out, and they pulled right about there.  
17 That's going to be my vehicle. I'll label it SV for  
18 suspect vehicle.

19 Q. Okay.

20 A. And PV for police vehicle.

21 Q. Okay.

22 A. About right there, that's where I stopped them. I  
23 exited my vehicle. I got about maybe right there to

1           theirs. They immediately fled the area.

2       Q.    Okay. So you pulled in along behind them. Did you  
3           initiate your emergency lights?

4       A.    That's when I initiated my emergency lights, and  
5           they -- they pulled over and stopped.

6       Q.    Okay. Did you, at this time -- is this still in the  
7           parking lot, or do you consider this still in the  
8           parking --

9       A.    I ran out of room on the paper. No. It's -- it's  
10           in the trailer park behind the store. It's a  
11           trailer park behind the store. And whatever street  
12           that is in the -- I don't know. I think -- I want  
13           to say Barberry (phonetic) maybe. Barberry Street  
14           or Barberry Drive.

15      Q.    Okay.

16      A.    I'm not sure.

17      Q.    Well -- I'm familiar with the parking lot. I assume  
18           you're familiar with the parking lot. It's a big  
19           parking lot.

20      A.    Correct.

21      Q.    I mean, like the type you would see in front of a  
22           Bruno's or something.

23      A.    Yeah.

1 Q. I mean, it's pretty expansive. That's my  
2 characterization.

3 So were you -- let's see. That would be to the  
4 west is where the trailer park is; right?

5 A. Right. West, yeah.

6 Q. If you can --

7 A. To the west of the boulevard, yeah. Right.

8 Q. If you can --

9 A. Uh-huh.

10 Q. -- considering that entire -- that entire parking  
11 lot -- and I'll guess it's several acres. How deep  
12 into the parking lot were you at this time when you  
13 attempted to initiate the stop?

14 A. I'm -- I want to say the street's Barberry.

15 Q. Yes, sir.

16 A. Wherever Barberry is in there. I don't know. Like  
17 I said, I was watching the car. I don't know how  
18 many streets I went over and up and all that stuff.  
19 I don't know.

20 Q. So you actually had left the parking lot and were on  
21 the surface streets in the trailer park when you  
22 initiated the stop?

23 A. We're in the trailer park, right.

1 Q. Okay. Which direction are you headed once you're in  
2 the trailer park, and when you attempt to initiate  
3 the stop for the first time?

4 A. That's why I have the car facing that way.

5 Q. All right. So you were facing north?

6 A. Right.

7 Q. All right. So you had turned onto one of the  
8 streets inside the trailer park heading north when  
9 you attempted to stop them?

10 A. When they stopped.

11 Q. Okay. And they came to a stop?

12 A. Right.

13 Q. Okay. Were you able to have visual contact with any  
14 of the suspects at the time?

15 A. No. Like I said, I was approaching the vehicle. I  
16 never made it up to the vehicle when the vehicle  
17 fled.

18 Q. Were you able to count the number of people in the  
19 car?

20 A. Not at that time, no.

21 Q. Okay. Did you have any idea -- for instance, did  
22 you know there was more than one?

23 A. I knew it was more than one, right. Because the guy

1 I saw get back in got in the back seat. So it had  
2 to be more than one.

3 Q. Okay. And which direction did they go after --

4 A. After that they -- it's another street that runs  
5 back up. They were coming back this way. Coming  
6 back towards the business. And they made that --  
7 that would be a left. And they came back out and we  
8 went around the business onto Wares Ferry Road.

9 Q. All right. So they went back around, hit the  
10 service road --

11 A. Yeah. Well, I -- I don't know -- I don't think we  
12 came all the way out to the service road. If you  
13 know the parking lot, the big lot goes all the way  
14 back out.

15 Q. Yeah.

16 A. So they went -- I know we did pass -- I'm sorry. We  
17 passed the business and went back around front and  
18 went back around and went out to Wares Ferry.

19 Q. Okay. And when you hit Wares Ferry Road, which  
20 direction of travel did you take?

21 A. We were going this way (indicating).

22 Q. West. Which is towards town?

23 A. Right.



1 Q. Okay. And tell me about any radio communications  
2 that you had that you were -- can recall from when  
3 you attempted to initiate the stop until you hit  
4 Wares Ferry Road?

5 A. When I attempted to initiate the stop, I told her  
6 what I had. When they pulled off, that's when I --  
7 I know I got on radio. I told her I had a vehicle  
8 that just pulled off from me. I asked for more  
9 units to come and assist me. I knew right then they  
10 were -- they were going to refuse to stop. We got  
11 onto Wares Ferry Road, I asked for a unit. I gave  
12 her my location, and I told her the speed and where  
13 we were going. And, at that time, other units got  
14 on the radio and let her know that they were en  
15 route to back me up.

16 Q. Okay. Regarding the -- you said there's two forms  
17 of communication that you can have. One is through  
18 dispatch on your radio, and the other is through  
19 your in-car computer system?

20 A. Correct.

21 Q. Okay. And you said you can reach down and press a  
22 button; right?

23 A. Right.

1 A. I can't recall that. I don't know.

2 Q. Okay. Did they fail to use turn signals at any  
3 time?

4 A. Correct.

5 Q. Okay. Do you recall exactly where the wreck  
6 occurred?

7 A. That's what I said. I can't remember the street  
8 names.

9 Q. Okay. If I told you the report said Warenwood,  
10 would that refresh your recollection?

11 A. If that's what my report says, yes, sir.

12 Q. Okay. Well, not what your report says, but what do  
13 you remember? Do you remember it being Warenwood?

14 A. That's what I'm telling you. I can't remember the  
15 street name.

16 Q. Okay. That's fine. Well, tell me about the wreck.  
17 I mean, exactly how it occurred, if you know.

18 A. Well, the vehicle wrecked into someone's privacy  
19 fence in their backyard. The passenger side of the  
20 vehicle was up against the fence. And the occupants  
21 of the vehicle immediately bailed from the vehicle.  
22 Two exited the front driver's side, because they  
23 couldn't get out of the passenger's side. And the

1 one in the back seat, he exited the rear seat of the  
2 vehicle -- rear driver's side door.

3 Q. Okay. And did he -- was that Mr. Hogan?

4 A. Correct.

5 Q. Okay. So if I'm understanding you right, he  
6 exited -- he was on the left rear side or the  
7 driver's side in the rear of the vehicle. But he  
8 exited on the passenger's side; is that correct?

9 A. Say that again.

10 Q. Mr. Hogan was in the back seat; is that correct?

11 A. Right.

12 Q. Okay. Did he exit from the driver's side or the  
13 passenger's side?

14 A. The driver's side.

15 Q. He was able to --

16 A. The back seat. He couldn't get out of the  
17 passenger's side, because they wrecked into a fence.

18 Q. Oh, okay. I'm sorry. I misunderstood you. I  
19 thought it was the driver's side that was on the --

20 A. No. The passenger's side.

21 Q. Oh, I'm sorry. Okay.

22 How close behind the Lincoln Town Car were you  
23 when it had the accident?

1 A. When it wrecked -- maybe thirty yards when it  
2 wrecked.

3 Q. Okay. And tell me, to the best of your  
4 recollection, exactly what you did after the wreck.

5 A. After the wreck, when they bailed -- the driver, the  
6 passenger, and the rear occupant of the vehicle  
7 bailed. I jumped out of the vehicle as well. And I  
8 chased them by foot to a fence -- another fence in  
9 the backyard.

10 Q. Let me interrupt you. Where did you park or come to  
11 rest?

12 A. The car went in the backyard and hit the fence, and  
13 I stayed on the street, whatever street it was.

14 Q. Okay. And you jumped out of your car?

15 A. Uh-huh.

16 Q. Your vehicle?

17 A. Uh-huh.

18 Q. Osko went with you?

19 A. Correct.

20 Q. All right. Was he leashed or unleashed?

21 A. He was unleashed.

22 Q. Okay. And you proceeded to go after the fleeing  
23 suspect?

1 A. Correct.

2 Q. Okay. And pick up from there.

3 A. Okay. I kept my eye on the back passenger, because  
4 I knew he was the one that got in the vehicle. The  
5 two front people exited first. The back guy, he was  
6 the last one out. I chased him to the fence. The  
7 front guy went over the fence first and he went down  
8 into -- there was a drainage ditch over there. The  
9 other guy, he went to the right. And the last guy  
10 -- when we were running to the fence, before he can  
11 get over -- myself and my partner, we were pretty  
12 close to him. That's when he turned and he  
13 screamed. I don't know if it was in fear or what it  
14 was, but he turned -- turned and yelled (indicating  
15 sound) and he proceeded over the fence and he went  
16 to the left.

17 Q. Okay. Which one of these individuals was Mr. Hogan?

18 A. That -- the last one.

19 Q. Okay. And just -- I'm going to ask you, please, if  
20 you'll just use Mr. Hogan's name so we'll be able to  
21 identify which --

22 A. Okay. That's fine.

23 Q. -- one we're talking about. And I'm really mostly

1 concerned about Mr. Hogan. The other suspects are  
2 not that important to me.

3 A. That's fine.

4 Q. But the other suspects left the area?

5 A. All three attempted to leave the area, but all three  
6 went opposite directions.

7 Q. All right.

8 A. Right.

9 Q. Now, were there four people total?

10 A. I only saw three.

11 Q. Okay.

12 A. I only pursued three on foot.

13 Q. Okay. And that includes Mr. Hogan?

14 A. Correct.

15 Q. So it was Mr. Hogan --

16 A. Mr. Hogan was the third -- the last subject to get  
17 over the fence.

18 Q. All right. And tell me about your pursuit of  
19 Mr. Hogan.

20 A. Okay. When I got to the fence, as I stated,  
21 Mr. Hogan, he turned around and he yelled -- he  
22 yelled. Like I said, I don't know if it was at my  
23 dog or in fear. He went left. I immediately held

1 my spot, which I'm trained to do. And I called for  
2 other units to get in the area. Some more K-9 units  
3 got in the area. And the spot that I last saw the  
4 subject run is where we began to track.

5 Q. Okay. Then that happened?

6 A. The track started, and Mr. Hogan was apprehended in  
7 a backyard not far from where I last saw him.

8 Q. Okay. Are you leaving anything out?

9 A. No.

10 Q. Okay. How is it that Mr. Hogan came to be  
11 apprehended?

12 A. He was apprehended by a K-9 --

13 Q. Okay.

14 A. By a K-9 dog.

15 Q. Osko got him?

16 A. Not Osko. It was another dog --

17 Q. Okay.

18 A. -- that apprehended Mr. Hogan.

19 Q. All right. Was there another K-9 unit in the area?

20 A. That's what I said. I held my spot, and I called  
21 for another K-9 unit to come and assist on the  
22 track. Due to it been raining and due to multiple  
23 suspects, we used two dogs. We did a dual track

1           that night.

2     Q.     Okay.

3     A.     And he was apprehended by another dog.   Greg is the  
4           one that apprehended Mr. Hogan.

5     Q.     The dog's name is Greg?

6     A.     Greg, right.

7     Q.     G-R-E-G?

8     A.     Right.

9     Q.     And who is the officer?

10    A.     Corporal Mora.   M-O-R-A.

11    Q.     Okay.   And do you know exactly where it is that  
12           Mr. Hogan was apprehended?

13    A.     No.   Not exactly, no.

14    Q.     Okay.   Do you have, at the time, a video camera in  
15           your unit?

16    A.     No.

17    Q.     Okay.   At the time, did Corporal Mora have a video  
18           camera in his unit?

19    A.     No.

20    Q.     Do you know who Kirk Pelham is?

21    A.     He was a detective, yes, sir.

22    Q.     Do you have any idea as to whether or not Kirk  
23           Pelham had a video camera in his vehicle?



1 Q. All right. Is that back into the street?

2 A. Back into the neighborhood.

3 Q. All right. And did you continue to search the  
4 neighborhood?

5 A. Yes.

6 Q. Okay. Were you able to apprehend any of the  
7 suspects yourself?

8 A. Me? No.

9 Q. Okay. Fill in the blank for me. You're searching  
10 for the suspects. Then what happens?

11 A. The suspects were apprehended. I don't know how  
12 many were apprehended during that time. I know  
13 Mr. Hogan was. We just searched the area -- I mean,  
14 looking for the suspects.

15 Q. Okay. And then you -- did you go back on patrol?

16 A. That night?

17 Q. Yes.

18 A. No. When I got done, I went to headquarters.

19 Q. Okay. Well, you're on third shift; right?

20 A. Right.

21 Q. And it starts at eleven o'clock?

22 A. Right.

23 Q. Okay.

1 A. That day I was working second shift.

2 Q. Oh, that day you were working second shift?

3 A. Right.

4 Q. Oh, okay. And remind me again. That's from  
5 three --

6 A. Well, we had a second shift -- I want to say seven  
7 until three. Those were the hours that we were  
8 working.

9 Q. Okay. Seven at night until three --

10 A. Seven until four -- yeah.

11 Q. Okay. So you did not go back on patrol that night?

12 A. No.

13 Q. All right. What did you do?

14 A. Went to headquarters. Before I went to  
15 headquarters, I got -- I got the property out of the  
16 car that I was instructed to get out of the car and  
17 took it to headquarters with me.

18 Q. Okay. Well, did anyone instruct you to come back to  
19 headquarters?

20 A. I mean, I just know I had to go back and type  
21 statements.

22 Q. Okay.

23 A. But Detective Pelham instructed me to get the

1 to punch in in different areas?

2 A. Right.

3 Q. Okay. And is it in the style of a memo, like, from  
4 me to you regarding this subject and then a --

5 A. Right.

6 Q. Okay. And who was it to?

7 A. To Lieutenant Caulfield.

8 Q. Okay. Why does it go to Lieutenant Caulfield?

9 A. He's my supervisor.

10 Q. Okay. And after you drafted that statement, what  
11 did you do with it?

12 A. I gave it to Detective Pelham.

13 Q. Pelham. Okay. And then you went home for the  
14 night?

15 A. No.

16 Q. Okay. Then what happened?

17 A. He told me to go down and impound the property that  
18 I had brought upstairs.

19 Q. Did you do that?

20 A. I did.

21 Q. Okay. Then what did you do?

22 A. While impounding the property -- I impounded the  
23 property and then I went back up -- while I